UNDT/2012/109, Tiwathia

UNAT Held or UNDT Pronouncements

t. The applicant submits that her request for suspension of action is timely as the contested administrative decision has yet to be implemented. Legal Pronouncement: The decision to select a successful candidate is implemented upon the candidate's unconditional acceptance of the offer presented to him which results in the formation of a binding employment contract between the candidate and the Organization. The formation of the employment contract, which results in the implementation of the post selection decision, will precede the date on which a successful candidate will assume his/her new functions. The date on which a successful candidate is to assume her/his functions is therefore not a matter of implementing the selection decision but one of executing the resultant employment contract.

Decision Contested or Judgment/Order Appealed

The Applicant appealed her non-selection to a D-1 level post.

Legal Principle(s)

Summary: When the Tribunal is seized of the review of a contested post selection, the first question it has to ask itself, as part of a suspension of action, is whether the decision has been implemented. In view of the fact that the contested decision had already been implemented, the Tribunal is not competent to hear the merits of the suspension of action. Legal Pronouncement: The decision to select a successful candidate is implemented upon the candidate's unconditional acceptance of the offer presented to him which results in the formation of a binding employment contract between the candidate and the Organization. The formation of the employment contract, which results in the implementation of the post selection decision, will precede the date on which a successful candidate will assume his/her new functions. The date on which a successful candidate is to assume her/his functions is therefore not a matter of implementing the selection decision but one of executing the resultant employment contract.

Outcome Dismissed on merits Full judgment Full judgment Applicants/Appellants Tiwathia **Entity** MSD/UNHQ Case Number(s) UNDT/NY/2012/064 Tribunal **UNDT** Registry New York Date of Judgement 18 Jul 2012 Language of Judgment **English**

Issuance Type

Judgment
Categories/Subcategories
Suspension of action / interim measures
Receivability
Applicable Law
Administrative Instructions

• ST/AI/2010/3

UNDT Statute

• Article 2.2

Related Judgments and Orders UNDT/2010/203 2011-UNAT-111 2011-UNAT-182